

ESTTA Tracking number: **ESTTA610794**

Filing date: **06/18/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Threshold Enterprises Ltd.
Granted to Date of previous extension	06/21/2014
Address	23 Janis Way Scotts Valley, CA 95066 UNITED STATES
Attorney information	Rod S. Berman, Esq. Jeffer Mangels Butler & Mitchell LLP 1900 Avenue of the Stars, 7th Floor Los Angeles, CA 90067 UNITED STATES trademarkdocket@jmbm.com Phone:310-203-8080

### Applicant Information

Application No	85685585	Publication date	04/22/2014
Opposition Filing Date	06/18/2014	Opposition Period Ends	06/21/2014
International Registration No.	NONE	International Registration Date	NONE
Applicant	GLANBIA INGREDIENTS (BALLYRAGGET) LIMITED GLANBIA HOUSE KILKENNY, IRELAND		

### Goods/Services Affected by Opposition

Class 001. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Whey protein for use as an emulsifier or binding agent in food; milk products as semi-manufactured products, namely, whey protein concentrates and isolates for the foodstuffs industry; milk permeate; casein for industrial products; casein for the food industry; lactose for use in food manufacture; milk protein concentrates and isolates for use in food manufacture, industrial use and scientific and medical research
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Whey protein supplements; casein dietary supplements; lactose for medical purposes
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Research and consultancy services in the field of sustainable food and drink product development; providing information, guidelines and consultation about sustainable dairy production in the field of food and drink product development; devising and testing standards, certification criteria and certification guidelines for food and drink production; services relating to the implementation of certification schemes for food and drink production;

auditing and evaluating participants in food and drink schemes; providing quality management services, namely, sustainable dairy quality evaluation and analysis, sustainable dairy quality assurance and quality control and sustainable dairy assessment in the field of food and drink production; Technical project studies, namely, monitoring, assessing, measuring and grading sustainable attributes on farm to include but not exclusive to identification and traceability, carbon footprint, classification and levels of biodiversity, animal health and welfare, animal remedies, animal feeds and water, biosecurity and pest control, housing of animals, transportation, water quality, water and energy use/efficiency/conservation, renewable energy, health and safety, soil and grass management, environmental and habitat protection, waste management, fertilizer and chemical use, social and economic sustainability, milk storage and collection, dairy and parlour management, milking equipment, milking general hygiene, on farms as well as dairy processing in the field of food and drink production

## Applicant Information

Application No	85685603	Publication date	04/22/2014
Opposition Filing Date	06/18/2014	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	GLANBIA INGREDIENTS (BALLYRAGGET) LIMITED GLANBIA HOUSE KILKENNY, IRELAND		

## Goods/Services Affected by Opposition

Class 001. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Whey protein for use as an emulsifier or binding agent in food; milk products as semi-manufactured products, namely, whey protein concentrates and isolates for the foodstuffs industry; milk permeate; casein for industrial products; casein for the food industry; lactose for use in food manufacture; milk protein concentrates and isolates for use in food manufacture, industrial use and scientific and medical research

Class 005. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Whey protein supplements; casein dietary supplements; lactose for medical purposes

Class 042. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Research and consultancy services in the field of sustainable food and drink product development; providing information, guidelines and consultation about sustainable dairy production in the field of food and drink product development; devising and testing standards, certification criteria and certification guidelines for food and drink production; services relating to the implementation of certification schemes for food and drink production; auditing and evaluating participants in food and drink schemes; providing quality management services, namely, sustainable dairy quality evaluation and analysis, sustainable dairy quality assurance and quality control and sustainable dairy assessment in the field of food and drink production; Technical project studies, namely, monitoring, assessing, measuring and grading sustainable attributes on farm to include but not exclusive to identification and traceability, carbon footprint, classification and levels of biodiversity, animal health and welfare, animal remedies, animal feeds and water, biosecurity and pest control, housing of animals, transportation, water quality, water and energy use/efficiency/conservation, renewable energy, health and safety, soil and grass management, environmental and habitat protection, waste management, fertilizer and chemical use, social and economic sustainability, milk storage and collection, dairy and parlour management, milking equipment, milking general hygiene, on farms as well as dairy processing in the field of food and drink production

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1909705	Application Date	05/12/1994
Registration Date	08/08/1995	Foreign Priority Date	NONE
Word Mark	SOURCE NATURALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1982/01/01 First Use In Commerce: 1982/01/01 vitamins, herbs and nutritional supplements		

U.S. Registration No.	3930397	Application Date	03/03/2009
Registration Date	03/15/2011	Foreign Priority Date	NONE
Word Mark	SOURCE NATURALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2002/03/06 First Use In Commerce: 2002/03/06 cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin		

Attachments	77682619#TMSN.jpeg( bytes ) 2014-6-18 Notice of Opposition.pdf(132461 bytes )
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## Certificate of Service

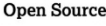
The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ ROD S. BERMAN
Name	Rod S. Berman, Esq.
Date	06/18/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial Nos. 85/685,585 and 85/685,603  
Filed July 24, 2012



Marks: OPEN SOURCE and   
Published in the Official Gazette on April 22, 2014

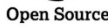
Threshold Enterprises Ltd.,	)	
	)	
Opposer,	)	
	)	Opposition No. _____
vs.	)	
	)	
Glanbia Ingredients (Ballyragget) Limited,	)	
	)	
Applicant.	)	
_____	)	

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

U.S. Trademark Application Serial No. 85/685,585 for the mark OPEN SOURCE, and




U.S. Trademark Application Serial No. 85/685,603 for the mark  ("Applicant's Marks")  
both in the name of Glanbia Ingredients (Ballyragget) Limited, an Ireland limited liability  
partnership ("Applicant"), were published for opposition in the Official Gazette on April 22,  
2014. Threshold Enterprises Ltd. ("Threshold Enterprises"), a corporation of Delaware with its  
principal place of business at 23 Janis Way, Scotts Valley, California 95066, believes it will be  
damaged by the registration of Applicant's Marks in International Classes 01, 05, and 42, and

hereby opposes the same, in accordance with Section 13 of the Trademark (Lanham) Act of 1946, 15 U.S.C. § 1063.

Threshold Enterprises has obtained the necessary extensions of time in which to file this Notice of Opposition.

As grounds for the opposition, Threshold Enterprises alleges as follows:

1. On information and belief, Applicant is an Ireland limited liability partnership with a principal place of business at Glanbia House, Kilkenny, Ireland.

2. Applicant filed applications for Applicant's Marks on July 24, 2012, seeking registration of OPEN SOURCE and  for various goods and services including, *inter alia*, those in International Classes 01, 05, and 42 ("Applicant's Goods and Services").

3. Threshold Enterprises is the owner of incontestable U.S. Trademark Registration No. 1,909,705 for SOURCE NATURALS for “vitamins, herbs and nutritional supplements.” SOURCE NATURALS was originally registered by Source Naturals, Inc., a wholly owned subsidiary of Threshold Enterprises, and was later assigned to Threshold Enterprises. This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises’ exclusive right to use SOURCE NATURALS in commerce or in connection with the goods specified in the registration.

4. Since at least thirty years prior to Applicant’s filing date for Applicant's Marks, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark and its trade name SOURCE NATURALS, INC. in connection with vitamins, herbs and nutritional supplements. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

5. Threshold Enterprises is the owner of U.S. Trademark Registration No. 3,930,397

for SOURCE NATURALS for “cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin.” This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises’ exclusive right to use SOURCE NATURALS in commerce or in connection with the goods specified in the registration.

6. Since at least ten years prior to Applicant’s filing date for Applicant's Marks, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark in connection with cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

7. Threshold Enterprises has invested substantial amounts of time, effort and money in developing, marketing, promoting and protecting its SOURCE NATURALS mark and SOURCE NATURALS, INC. trade name throughout the United States. As such, in addition to the protection afforded Threshold Enterprises by its federal trademark registration of SOURCE NATURALS, Threshold Enterprises has extensive, non-registered statutory and common law rights in its SOURCE NATURALS mark and SOURCE NATURALS, INC. trade name.

8. Applicant's Goods and Services in Applicant’s Marks so resemble Threshold Enterprises’ SOURCE NATURALS mark that they are likely to cause confusion, or to cause mistake or deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(d); and more particularly, Applicant's Goods and Services in Applicant's Marks, and use thereof, are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that Applicant's Goods and Services in Applicant's Marks originate with or are affiliated with Threshold Enterprises, or otherwise are authorized,

licensed or sponsored by Threshold Enterprises.

9. By reasons of the foregoing, Threshold Enterprises will be gravely damaged by the registration of Applicant's Goods and Services in Applicant's Marks, because registration of Applicant's Goods and Services in Applicant's Marks would be in violation of Threshold Enterprises' trademark rights.

WHEREFORE, Threshold Enterprises prays that this Notice of Opposition be sustained in favor of Threshold Enterprises and that Serial Nos. 85/685,585 and 85/685,603 be denied registration for all goods and services in International Classes 01, 05, and 42..

Respectfully submitted,

Dated: June 18, 2014

/s/ ROD S. BERMAN  
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E-mail: trademarkdocket@jmbm.com  
Attorneys for Opposer Threshold Enterprises Ltd.

**PROOF OF SERVICE**

It is hereby certified that on **June 18, 2014**, a copy of the foregoing NOTICE OF OPPOSITION has been sent by first class mail, postage prepaid to Associated Brands Limited Partnership at the correspondence address of record in the Patent and Trademark Office:

Bassam N. Ibrahim  
Buchanan Ingersoll & Rooney, PC  
P.O. Box 1404  
Alexandria, Virginia 22313-1404



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Esther Silverman